

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

THE UNITED STATES COURT
OF APPEALS

For the
SECOND CIRCUIT

FEB 25 1974

SHERWIN S. MINKES,
APPELLANT

DOCKET NUMBER

74-1060

-VERSUS-

XEROX CORPORATION,
APPELLEE

APPENDIX FOR THE APPELLANT

DESCRIPTION OF PAPER

COURT INDEX NUMBER

I. COMPLAINT

1

II. LETTER FROM S.S. MINKES
TO JUDGE LASKER dated
JULY 26, 1973

14

III. LETTER TO JUDGE LASKER
FROM S.S. MINKES dated
OCT 8 '73

19

IV. MEMORANDUM #40127 by JUDGE LASKER

7

V. INDEX TO RECORD ON APPEAL

A

SHERWIN S. MINKES, PRO SE
P.O. BOX 433
KENDALL, FLORIDA 33156

TELEPHONE - 305-665-1744

PAGINATION AS IN ORIGINAL COPY

United States District Court

for the Southern District of New York

SHERWIN S. MINKES

73 CIV. 1781

- V -

XEROX CORPORATION

FILED
DEC 17 1969
FBI - NEW YORK

- ① I am suing because of threats and knifing in lower back portion of my brain by MRS. KATHLEEN PALMER, customer assistant of XEROX CORP. and knifing in lower back of MY BRAIN by JACK LEVIN, ZONE SALES MANAGER OF XEROX CORP, BETWEEN 3:00 P.M. AND 5:00 P.M. ON WEDNESDAY, DECEMBER 17, 1969 when I was an employee of XEROX CORP with the title meter card coordinator.

THE THREATS began after MR. GEORGE BLOOM, ZONE ADMINISTRATIVE MANAGER gave a 2 finger signal to GERRI WOLFE, customer assistant, in NOVEMBER, 1969 in the office at 200 East 42nd Street saying "I don't want to take that (looking at me) up there (meaning 666 FIFTH AVENUE where we were moving after JAN. 1, 1970) GEA CAN YOU TAKE CARE OF THAT?" GERRI WOLFE LOOKED AT ME AND NODDED YES. THREATS WERE MADE BY DAN DURANTE, AREA OFFICE MANAGER, AND CHRIS HARRAN, CUSTOMER ASSISTANT, SAYING "YOU'D BETTER SHUT YOUR MOUTH" TO ME. RAY CLYNE, SALES MANAGER, BROKE UP A CARD BOARD BOX and looking at me said "If there's a fourth your the fifth."

①

E. J. Beckler

Deputy Clerk.

I also allege a direct connection between

Xerox Corporation and the Knifing in the upper
back left portion of my brain by MRS TOBY
KATZ at ~~MINIBENMART~~ 5214 12th AVENUE

ON FRIDAY EVENING DECEMBER 19, 1969 between

7:00 AND 9:00 P.M. in the presence of her

HUSBAND MR. REUBEN KATZ while I was SITTING

AT THE KITCHEN TABLE. SHE DID THIS AFTER

A LOUD BROKEN RING SIGNAL ON THE TELEPHONE.
DEBBIE, A CUSTOMER ASSISTANT AT XEROX CORPORATION,

made mention that this would happen to me

only 2 weeks before at 200 E. 42nd

STREET in the office of XEROX CORP.

I was FURTHER ATTACKED ON JANUARY 16, 1970

by Adrian Kark at 666 Fifth Avenue, NEW YORK CITY, with
a sharp instrument entering the lower

back portion of my brain at about

12:00 P.M. KAREN ETKIND, GERRI WOZEB

AND KATHLEEN PALMER, all customer
assistants were watching this.

THE BLOW BY MRS TOBY KATZ KNOCKED
OUT THE REPRODUCTIVE FACILITY OF MY
LEFT BRAIN WITH MY RIGHT TESTICLES.

THE WITNESSES TO THE ATTACK BY KATHLEEN PALMER, AFTER LEAVING THE OFFICE OF MR RAY LYNE, WERE JUDY WHITESELL AND JUNE WELD CUSTOMER ASSISTANTS AT 200 E. 42ND ST.

The witness to the cutting of the back of my head by JACK LEVIN JUST BEFORE 5:00 P.M. DEC. 17, 1969, WAS MR ^{JOE} ~~McGOVERA~~ MCGOVERA, SALES MANAGER.

I am suing for TWENTY FIVE MILLION DOLLARS

- ② I FILED THE COMPLAINT AND SUIT WITH THE U.S. DISTRICT COURT IN MARCH, APRIL AND MAY OF 1970 but didn't have the money to pursue the case.

The COURT HAS JURISDICTION BECAUSE THIS OCCURRED IN NEW YORK CITY WHILE I WAS A RESIDENT OF BROOKLYN, NEW YORK 353 EAST 34TH STREET. AND THE LAWSUIT IS OVER \$10,000.

- ③ SHERWIN S. MINKES
10590 S.W. 77 AVENUE
MIAMI, FLORIDA 33156

- ④ XEROX CORPORATION
666 FIFTH AVENUE
NEW YORK, NEW YORK

- ⑤ 25 million ^{DOLLARS} would be remedy for this
CIVIL ACTION AGAINST XEROX CORPORATION

THE PRINCIPALS IN THE CASE

ARE: ~~THE ABOVE NAMED PERSONS~~ XEROX CORPORATION
166 FIFTH AVE N.Y.C.

① GEORGE BROOM, NOW AN EMPLOYEE OF N.Y.C.
ITT

② DAN DURANTE NOW IN
XEROX - WHITE PLAINS, NEW YORK

③ BILL HAGER - THEN ASST OFFICE MGR
XEROX - WHITE PLAINS, NEW YORK

④ KATHLEEN PALMER - CUSTOMER ASST (CA)

⑤ ADRIAN KARLE - CA - XEROX

⑥ KAREN ETKIND - CA - XEROX

⑦ JUDY WHITESELL - CA - XEROX

⑧ GERRI WOLFE - CA - XEROX

⑨ CHRIS HARAN - CA - XEROX

⑩ RAY CLYNE - SALE MANAGER - XEROX

⑪ GEMR MCGOVERN - SALES MANAGER - XEROX

⑫ MRS TOBY KATZ

1425 51ST STREET APT. F4
BROOKLYN, NEW YORK

⑬ MR. REUBEN KATZ

1425 51ST STREET APT F4
BROOKLYN, NEW YORK

⑭ DEBBIE - CA - XEROX CORP.

⑮ JUNE WELD - CA XEROX CORP.

SWORN TO ~~BEFORE ME~~ THIS

17th DAY OF April, 1970

Sherwin S. Minkes
SHERWIN S. MINKES

I swear in the name of God this
is the truth

Sherwin S. Minkes

10510 5th "17" Avenue

Midway, N. Carolina 27556

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

~~NEW YORK, NEW YORK 10007~~

RE: 73 CIV 1781

MINNESOTA XEROX CORPORATION

YOUR HONOR JUDGE LASKER

JAN 14 '74

I AM IN RECEIPT OF A LETTER DATED JULY 23, 1973 FROM THE CHAMBERS OF JUDGE LASKER ASKING XEROX CORPORATION IF THEY WISH TO FURTHER EXPAND ON THE POINTS OF DEFENSE TO AVOID GOING TO TRIAL IN OPPOSITION TO MY MOTION FOR TRIAL. THE LETTER HAD A PRINTED NAME CAROLINE MARTIN LAW CLERK TO JUDGE LASKER. I AM NOT CERTAIN WHETHER JUDGE LASKER OR CAROLINE MARTIN ORIGINATED THE LETTER. BE THAT AS IT MAY, I, SHERWIN S. MINKES STILL MAKE A MOTION FOR TRIAL ON THESE GROUNDS IN ANSWER TO MAIN POINTS OF DEFENSE BY XEROX CORPORATION:

FIRST DEFENSE - ON LACK OF JURISDICTION: MAIN CRIMES TOOK PLACE IN NEW YORK CITY AND I AM SUING ON DIVERSITY FROM FELONIES CHARGED AND FILED WITH DISTRICT ATTORNEY'S OFFICE OF NEW YORK AND NEW YORK CRIMINAL COURT ~~AND BROOK~~ OF NEW YORK CITY AND BROOKLYN, NEW YORK.

14 SECOND DEFENSE - COMPLAINT FAILS TO STATE CLAIM UPON WHICH RELIEF

CAN BE GRANTED: COMPLAINT STATES
I AM SUING FOR 25 MILLION DOLLARS
FOR THREATS ON MY LIFE BY
CERTAIN NAMED AGENTS AND
EMPLOYEES OF XEROX CORPORATION
FOLLOWED BY ATTACKS ON ME
BY NAMED INDIVIDUALS WITNESSED
BY NAMED INDIVIDUALS OF XEROX.

(C) THIRD DEFENSE: THIS ACTION
BARRED BY APPLICABLE STATE
OF LIMITATIONS; THE SUIT
WAS FILED IN APRIL OF 1973
WITHIN 3 YEARS OF THE STATE
UNEMPLOYMENT INSURANCE
HEARING IN NEW YORK CITY
IN JULY, 1970 WHERE MR. JUDY
WHITESELL UNDER OATH TESTIFIED TO THE TRUTH
OF MY CHARGES AGAINST
XEROX CORPORATION EMPLOYEES.
ALSO AS LATE AS FEBRUARY, 1973
AT THE AQUARIUS LOUNGE
IN MIAMI, FLORIDA AT 820 SW
42ND AVENUE I RECOGNIZED A
WOMAN WHO WAS CHRIS HARRAN, A WOMAN
OF XEROX NAMED IN MY COMPLAINT, HARASSING
ME WITH OTHER MEN UNKNOWN TO ME
AND ANOTHER WOMAN. ALSO THIS
COMPLAINT WAS FILED IN APRIL OF 1970 ^{PROSE} IN CLERKS OFFICE.
TRULY YOURS

SHERWIN S. MINKES
Catherine S. Minkes

10540 SW 77 AVE.
MIAMI, FLORIDA
33151

SHERWIN S. MINKES
PLAINTIFF

V.

XEROX CORPORATION ET AL
DEFENDANT

CASE NO. 73 CIV 1781

JUDGE LASKER

DEPENDANT NAME SHOULD READ XEROX CORPORATION ET AL
BEING THAT THE DEFENDANTS LAWYERS

SIMPSON THATCHER & BARTLETT SEEM TO BE PREOCCUPIED
WITH STATUTE OF LIMITATIONS AND SEEM TO BE
CONFUSED AS TO THE CHARGES FROM WHICH
THE 25 MILLION DOLLAR LAWSUIT DERIVES
THE FOLLOWING IS SUBMITTED BY THE PLAINTIFF
FOR EXPANSION AND CLARIFICATION OF CHARGES.
THE LAWSUIT DERIVES FROM CHARGES OF MENTAL AND
AND CRUELTY AND INJURY
PHYSICAL TORTURE, BY THE XEROX CORPORATION AND
CONSPIRACY TO COMMIT MURDER AGAINST PLAINTIFF
SHERWIN S. MINKES OVER A PERIOD OF FOUR YEARS

FROM MAY, 1969 TO FEBRUARY, 1973 IN MIAMI, FLORIDA
AT 820 LESSENE ROAD WHEN PLAINTIFF WAS HARASSED
BY MISS CHRIS HAAR WHO THREATENED HIM IN VIOLATION OF
ARTICLE 2 OF THE AMENDMENTS TO THE U.S. CONSTITUTION
SHERWIN S. MINKES
1980 88

19
SIGNED 8/10/73
SHERWIN S. MINKES

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SHERWIN S. MINKES,

Plaintiff,

-against-

XEROX CORPORATION,

Defendant.
-----X

APPEARANCES:

SHERWIN S. MINKES, ESQ.
P. O. Box 433
Kendall, Florida 33156
Attorney Pro Se

SIMPSON THACHER & BARTLETT, ESQS.
One Battery Park Plaza
New York, New York 10004
Attorneys for Defendant
Of Counsel: ROLON W. REED, ESQ.

#40127

73 Civ. 1781

MEMORANDUM

FILED
U.S. DISTRICT COURT
DEC 14 12 37 PM '73
S.D.N.Y.

MINUTE BOOK

DEC 19 1973

7

LASKER, D.J.

This action seeks damages for injuries and mental distress allegedly suffered by plaintiff on three occasions in 1969 and 1970, when employees of defendant are claimed to have "knifed" and "attacked" him. Defendant has moved to dismiss the complaint as time-barred by the Statute of Limitations.

Plaintiff, who appears pro se, does not set forth in his pleadings the basis for our jurisdiction, but since he and defendant are residents of different states, we will assume he alleges diversity jurisdiction.

Since all the acts complained of are alleged to have occurred in this state, New York law establishes the applicable limitations period. Guaranty Trust Co. v. York, 326 U.S. 99 (1945), Gleason v. United States, 458 F.2d 171 (3rd Cir. 1972).

It is unclear what theory of liability plaintiff alleges but a generous reading of the complaint suggests that the action sounds either in assault and battery, or personal injury resulting from defendant's alleged negligence. The New York Statute of Limitations for an assault and battery is one year, C.P.L.R. §215(3), and for an action to recover on a personal injury, three years, C.P.L.R. §214(5).

Since the most recent act complained of allegedly took place on January 16, 1970, and the complaint was filed over three years later, on April 23, 1973, the action is time-barred under either theory. We note that plaintiff filed with the court, on October 9, 1973, a document for the declared purpose of "expansion and clarification of charges, which complains of additional acts by defendant allegedly occurring in 1973. Since this paper was filed six months after defendant's answer, and since plaintiff has not moved this court to amend and supplement his complaint pursuant to Rule 15, Federal Rules of Civil Procedure, we decline to consider it to be an amendment to the complaint.

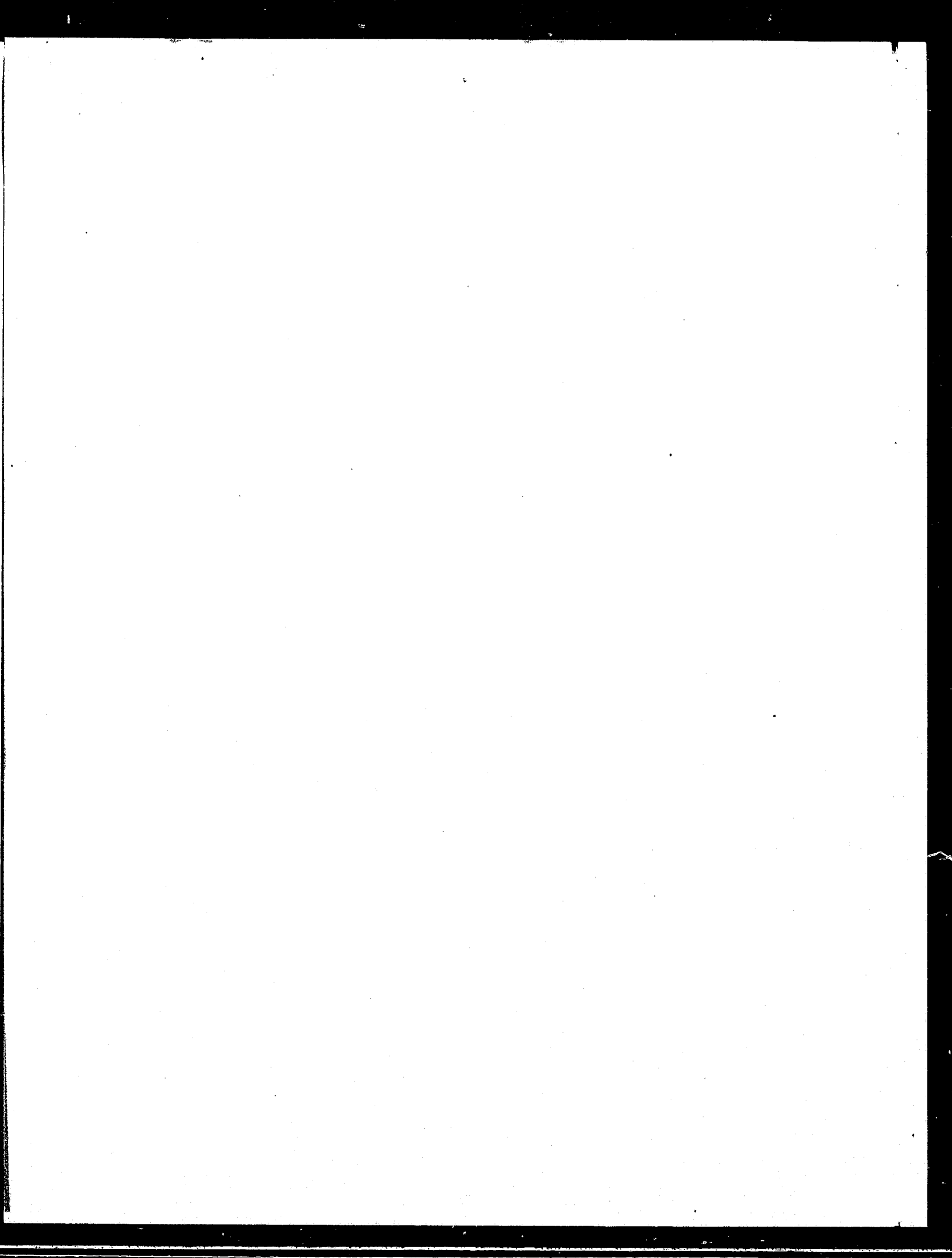
For the foregoing reasons, the motion to dismiss is granted.

It is so ordered.

Dated: New York, New York
December 12th, 1973.

Wm. J. Carter

U.S.D.J.



UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SHERWIN S. MINKES,

Plaintiff

vs

XEROX CORPORATION,
Defendant.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF
NEW YORK.

CASE NO. 73 Civ 1781

JUDGE Lasker

INDEX TO THE RECORD ON APPEAL

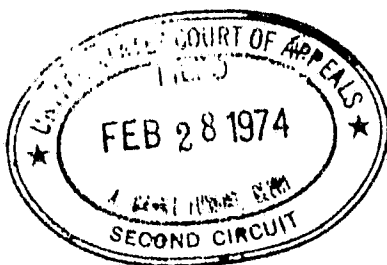
DOCUMENTS

A-B

Certified copy of docket entries
Complaint
Summons
Answer by Simpson Thacher & Bartlett
Pltff's
Defk's request for a Jury Trial
Notice of Motion by Simpson Thacher & Bartlett
Deft's Memorandum of Law
Memorandum #40127 by Judge Lasker
Judgment by Raymond T. Burghardt/Clerk
Pltff's Notice of Appeal

1
2
3
4
5
6
7
8
9

Letter to Judge Lasker from S.S. Minkes dated May 24, 73	10
Letter from Judge Lasker's Sec. to S.S. Minkes dated June (letter (copy) from R. Appleby law Clerk to Judge Lasker to S.S. Minkes attached)	11
Letter to Judges Lasker & Gagliardi from S.S. Minkes dated July 13, 73	12
Letter to Judge Lasker xxxxx from S.S. Minkes dated July 20, 73 (copy of letter from C.H. Martin, Judge Lasker's law clerk to R.W. Reed. attached)	13
Letter Judge Lasker from S.S. Minkes dated July 26, 73	14
Letter to C.H. Martin, Judge's Lasker's Law Clerk, to Rolon W. Reed, dated July 31, 73	15
Letter to Judge Lasker from S.S. Minkes dated Sept 20, 73	16
Copy of Letter to S.S. Minkes from Richard Appleby Law Clerk of Judge Lasker dated July 17, 73	17
Letter to Judge Lasker from S.S. Minkes dated Nov 9, 73	18
Letter to Judge Lasker dated Oct 8, 73 from Minkes	19
Clerk's Certificate	20



74-1060